

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLYDE RAY SPENCER, MATTHEW RAY
SPENCER, and KATHRYN E. TETZ,

Plaintiffs,

v.

FORMER DEPUTY PROSECUTING
ATTORNEY FOR CLARK COUNTY JAMES
M. PETERS, DETECTIVE SHARON KRAUSE,
SERGEANT MICHAEL DAVIDSON, CLARK
COUNTY PROSECUTOR'S OFFICE, CLARK
COUNTY SHERIFF'S OFFICE, THE COUNTY
OF CLARK and JOHN DOES ONE THROUGH
TEN,

Defendants.

No. 3:11-cv-05424

JOINT STATUS
REPORT AND
DISCOVERY PLAN

1. This case raises issues of civil rights and malicious prosecution. There is a moderate level of complexity.

2. The FRCP 26(f) conference was held by conference call on August 24, 2011. Plaintiffs' attorneys Kathleen Zellner and Douglas Johnson discussed the case with Defense attorney Bronson Potter, who represented all defendants but Shirley Spencer. Defense attorney William H. Dunn represented Shirley Spencer at the conference. In response to the complaint on file, Shirley Spencer had filed a motion to dismiss the morning of the

JOINT STATUS REPORT
AND DISCOVERY PLAN — 1

Case No. 3:11-cv-05424
DWT 18296536v1 0094078-000001

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1 conference, alleging the allegations against her were not adequately set forth. This Court
2 denied that motion on September 29, 2011. At the time of the conference, the remaining
3 defendants were also expected to file dispositive motions seeking to dismiss some or all of
4 the Plaintiffs' claims. The parties discussed the fact that the State Attorney General's Office
5 would be substituting as counsel for Defendant Peters. It was agreed that any motion for
6 default would await the substitution of counsel. In this Court's order of June 6, 2011, the
7 date for initial disclosures pursuant to FRCP 26(a)(1) was set for September 27, 2011.
8 Plaintiffs served initial disclosures on September 27, 2011. Defendants Krause, Davidson,
9 Clark County Prosecutor's Office, Clark County Sheriff's Office and Clark County served
10 their initial disclosures on September 29, 2011.

12 On September 23, 2011 this Court permitted the State Attorney General's Office to
13 substitute as counsel for Defendant Peters. On September 26, 2011 Defendant James Peters
14 filed an Answer to the Complaint, Affirmative Defenses and a Jury Demand.

16 On September 28, 2011, Assistant Attorney General Patricia C. Fetterly, as counsel
17 for Defendant James Peters, sent correspondence seeking to determine whether there was any
18 objection to continuing the initial disclosures until November 15, 2011 and the date for the
19 joint status conference to December 1, 2011. There was no objection from any party. As the
20 Assistant Attorney General did not substitute for Defendant Peters until September 23, 2011,
21 the following references to Defendants' attorneys and agreements do not include Defendant
22 Peters.

24 3. The parties believe the deadline for joining additional parties should be six (6)
25 months from the filing of this order.

26 4. Mediation should be the ADR method used.

1 5. The defense attorneys stated that discovery must begin before settlement can
2 be properly explored. The mediation should take place within twelve months after this report
3 is filed.

4 6.

5 a) The FRCP 26(f) conference was held by conference call on August 24,
6 2011. In this Court's order of June 6, 2011, the date for initial disclosures
7 pursuant to FRCP 26(a)(1) was set for September 27, 2011.

8 b) At this point, the parties believe that they will need discovery on both
9 liability and damage issues. Discovery should not be limited or focused
10 on particular issues.

11 c) At this point, the parties do not propose any changes in the limitations on
12 discovery imposed by the federal and local civil rules, or any other
13 limitations.

14 d) The parties will seek to minimize discovery expense by attempting to
15 resolve discovery issues amicably and by avoiding any unnecessary
16 discovery.

17 e) The parties expect to present a proposed Stipulated Protective Order
18 governing the handling of confidential information.

19 7. It was agreed that depositions would be completed within ten months of the
20 filing of this report. The remainder of discovery can be completed within
21 fifteen (15) months of the filing of this report.

22 8. The parties do not consent to referral of the case to a Magistrate Judge.

23 9. Bifurcation is not appropriate.
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10. The parties do not propose omitting the jurisdiction, admitted facts and issues of law sections from the pretrial statements and pretrial order required by Local Rules CR 16 and CR 16.1.
11. The parties do not have any suggestions for shortening or simplifying the case at this time.
12. At this point, it is anticipated that the case will be ready for trial within eighteen (18) months.
13. A jury trial has been demanded.
14. At this point, it appears that twenty (20) trial days will be needed.
15. At this point, there are no known dates that trial counsel has complications that need consideration in setting a trial date.
16. As this case will be a jury trial, it cannot be considered for designation for trial at the Federal Building in Vancouver, Washington.
17. Defendants Peters, Spencer, Clark County Sheriff's Office, Clark County Prosecutor's Office have been served with process. Attorney Bronson Potter appeared for all defendants except Shirley Spencer. The Attorney General's office substituted for Defendant Peters. Attorney William H. Dunn has appeared for Shirley Spencer. Attorney Bronson Potter believes that the County of Clark was not properly served. Plaintiffs believe that the County of Clark was properly served. Plaintiffs' are in the process of serving Defendants' Davidson and Krause with process.
18. Trial Counsel for Plaintiff will be Kathleen Zellner, Kathleen T. Zellner & Associates, P.C., Esplanade IV, 1901 Butterfield Rd., Suite 650, Downers

1 Grove, IL 60515. Trial Counsel for Defendants Peters, Clark County Sheriff's
2 Office, Clark County Prosecutor's Office, the County of Clark, Michael
3 Davidson and Sharon Krause will be Bronson Potter, Chief Civil Deputy.
4 Clark County Prosecutor's Office, 604 West Evergreen, P.O. Box 5000,
5 Vancouver Washington 98666-5000. Trial Counsel for James Peters will be
6 the Dan Judge and Patricia C. Fetterly of the Attorney General's Office, 7141
7 Cleanwater Drive SW, P.O. Box 40126, Olympia, Washington 98504-0126,
8 Trial Counsel for Shirley Spencer will be William H. Dunn, Dunn Law
9 Office, P.O. Box 1016, 1024 NE 68th Street, Vancouver, Washington 98665.
10

11 19. Neither party wishes a scheduling conference prior to a scheduling order
12 being entered in the case.

13 DATED this 4th day of October, 2011.

14 Respectfully submitted,

15 Attorneys for Plaintiffs

16 By s/ Daniel T. Davies

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By s/ Patricia C. Fetterly

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CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2011, I electronically filed foregoing with the Clerk of the Court using the CM/ECF system which will send notification of said filing to the following:

Daniel J. Judge, of Attorneys for Defendant James M. Peters
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**E. Bronson Potter, of Attorneys for Defendants Detective Sharon Krause,
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Sheriff's Office, The County of Clark**
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William Hudson Dunn, Attorney for Defendant Shirley Spencer
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The following will not receive electronic notification of the filing:

Robert M. McKenna
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I certify that on October 4, 2011, I caused a true and correct copy of the foregoing to be mailed to Robert McKenna at the above address.

DATED this 4th day of October, 2011.

s/Daniel T. Davies
Daniel T. Davies